

HOUSE No. 1780**The Commonwealth of Massachusetts**

PRESENTED BY:

Martin J. Walsh*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to require national background checks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martin J. Walsh	13th Suffolk
Robert L. Rice, Jr.	2nd Worcester
Steven M. Walsh	11th Essex
Richard T. Moore	Worcester and Norfolk
Cleon H. Turner	1st Barnstable
Joyce A. Spiliotis	12th Essex
Tom Sannicandro	7th Middlesex
Thomas M. Stanley	9th Middlesex
John W. Scibak	2nd Hampshire
Michael Brady	9th Plymouth
Christine E. Canavan	10th Plymouth
Robert P. Spellane	13th Worcester
Matthew C. Patrick	3rd Barnstable
John P. Fresolo	16th Worcester
Bill Bowles	2nd Bristol
Mary E. Grant	6th Essex
John J. Binienda	17th Worcester
Mary E. Grant	6th Essex
Geraldine Creedon	11th Plymouth

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 144 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO REQUIRE NATIONAL BACKGROUND CHECKS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 172 of chapter 6 of the General Laws is amended by inserting the following
2 new section 172J as follows:-

3 Notwithstanding any other provision of law, any person seeking employment or a position as a regular
4 volunteer or trainee to provide services for, or, on behalf of the Department of Mental Retardation or its
5 vendor agency programs where such employment or position involves potential unsupervised contact with
6 individuals with mental retardation shall be required to have a national criminal background check prior
7 to assuming said employment or position.¹ Said criminal background check will be determined by using
8 the Integrated Automated Fingerprint Identification System maintained by the Federal Bureau of
9 Investigation's Criminal Justice Information Services Division.

10 It shall be the responsibility of the Commonwealth to ensure that said criminal background checks are
11 processed for review prior to such time that an individual seeking employment or a position as a volunteer
12 or trainee assumes said employment or position.

13 Any person who willfully requests, obtains or seeks to obtain criminal offender record
14 information or the equivalent from other jurisdictions under false pretenses, or who willfully
15 communicates or seeks to communicate criminal offender record information or the equivalent
16 from other jurisdictions to any agency or person except in accordance with the provisions of
17 sections one hundred and sixty-eight to one hundred and seventy-five, inclusive, or any member,
18 officer, employee or agency of the board or any participating agency, or any person connected
19 with any authorized research program, who willfully falsifies criminal offender record
20 information, or the equivalent from other jurisdictions, or any records relating thereto, shall be in
21 violation of this provision.

22 The Criminal History Systems Board, the Disabled Persons Protection Commission, and the State Police
23 has cooperate and supervise the participation by all Department of Mental Retardation providers in any
24 interstate system for the exchange of criminal offender record information or the equivalent from other
25 jurisdictionsⁱⁱ and shall be responsible to assure the consistency of such participation including redacting
26 information so that criminal offender record information or the equivalent from other jurisdictions is
27 limited to convictions and open cases, and, that juvenile records are-not made available.

28 Any provider of services to individuals pursuant to a contract with the Department that hires, retains or
29 supervises an employee, volunteer or trainee whom the provider knows or should know, will potentially
30 come into unsupervised contact with such individuals, and, because of a criminal conviction or pending
31 criminal charge of a nature that would pose a unacceptable risk of physical harm to or financial
32 exploitation of such individuals shall be in violation of this provision. The hiring authority shall use,
33 when making a determination of unacceptable risk, the guidelines as provided by existing Department of
34 Mental Retardation regulations.

35 The Board shall afford an individual who may be wrongly associated with a record or whose record may
36 contain errors, the opportunity to contest the accuracy of an out-of-state record. Each individual shall
37 have the right to inspect, and if practicable, copy, criminal offender record information or the equivalent
38 from other jurisdictions which refers to him. If an individual believes such information to be inaccurate or
39 incomplete, the Criminal Systems History Board shall notify the state whose record is contested and assist
40 the individual in following the process for correcting inaccuracies in that state, as well as notify the
41 agency to whom the record was disseminated that the record is being contested and that no adverse action
42 can be taken by that agency pending a resolution of the dispute.ⁱⁱⁱ This matter should be resolved as soon
43 as practicable but no later than 30 days after notification. Agencies at which criminal offender records or
44 the equivalent from other jurisdictions are sought to be inspected shall prescribe reasonable hours and
45 places of inspection, and shall impose such additional restrictions as may be approved by the board, as are
46 reasonably necessary both to assure the record's security and to verify the identities of those who seek to
47 inspect them.
